IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8112 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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STATE OF GUJARAT

Versus

JAYANTIBHAI VENABHAI PATEL

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Appearance:

MR MA BUKHARI, AGP, for Petitioners

MR JV JAPEE for Respondent No. 1

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CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 21/01/2000

ORAL JUDGEMENT

1. On a joint request of the learned counsel for the respective parties, rule is taken up for final hearing today.

2. I have heard the learned counsel for the respective parties in respect of merits of the award and

with reference to such evidence on record, to which my attention has been drawn.

3. On a perusal of the impugned judgement and award, it does appear that the petitioner - State has been negligent in conducting the proceedings before the Labour Court. The recital in para 3, 4 and 5 also indicate that the evidence of the workman led before the Labour Court has gone unchallenged because of the negligence of the officers of the petitioner - State and/or Commissioner, Geology & Mining Department. It is also possible that the learned counsel engaged by these parties could have been negligent. However, the purpose of these observations is not to pinpoint blame or to assign reason for default. The only purpose is to point out to the State of Gujarat that it is being increasingly noticed that the interest of the State are made to suffer on account of gross indifference and negligence displayed by its officers in attending to Court matters. Ultimately, it is the State of Gujarat and in the ultimate analysis, the public which suffers.

4. On the facts and in the circumstances, since the impugned judgement and award have been passed in default in conducting the proper defence, it was suggested to the learned counsel for the respondent as to whether, in the interest of justice and fair play, the matter could be remanded back to the trial Court, subject to the condition that heavy costs would be awarded to the present respondent. Learned counsel for the respondent, after consulting his client, has been persuaded by the Court to agree.

5. In the premise aforesaid, the impugned judgement and order is quashed and set aside and the same is remanded back to the Labour Court for re-hearing on merits, after affording an opportunity to the present petitioners to conduct their defence, within a reasonable time frame. It is however clarified that, by way of a pre-condition to this order, the present petitioners shall pay to the respondent a sum of Rs.10,000/- by way of costs, and that this payment shall be made within 90 days from today. The amount of this costs shall be deposited before the Labour Court within the prescribed time period.

It is further clarified that since this situation has been brought about by the gross negligence and indifference of the officers of the present petitioners, it will be open to the Government to recover atleast this amount, if not a larger amount, from the concerned

officers.

Rule is accordingly made absolute.

JANUARY 21, 2000 [Y.B.BHATT, J.]

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